

Board of Chiropractic Examiners

2525 Natomas Park Drive, Suite 260
Sacramento, California 95833-2931
Telephone (916) 263-5355 FAX (916) 263-5369
CA Relay Service TT/TDD (800) 735-2929
Consumer Complaint Hotline (866) 543-1311
<http://www.chiro.ca.gov>

**NOTICE OF PUBLIC MEETING - AMENDED**

Notice is hereby given that a meeting of the **Board of Chiropractic Examiners** will be held as follows:

March 27, 2008

Upon Conclusion of the Administrative Committee Meeting

Hearing Room

400 R Street, Room 101

Sacramento, CA 95814

AGENDA**PUBLIC SESSION****Call to Order**

Frederick Lerner, D.C., D.C., Chair
Hugh Lubkin, D.C., Vice-Chair
Francesco Columbu, D.C., Secretary
Jim Conran, Public Member
Judge James Duvaras (Ret.), Public Member
Richard Tyler, D.C.

CLOSED SESSION**Discussion on Pending Litigation**

Pursuant to California Government Code Section 11126(e)

- ***David Hinchee v. Board of Chiropractic Examiners, Catherine Hayes***
Sacramento County Superior Court, Case No. 07AS03721
- ***Catherine Hayes v. Board of Chiropractic Examiners***
Department of Fair Employment and Housing and Department of Industrial Relations
Complaints
- ***Bryan Meredith, D.C. v. M. Maggie Craw, D.C. et al.***
Sacramento County Superior Court, Case No. 07AS03639

Deliberation on Disciplinary Matters and Possible Action on Disciplinary Decisions

Pursuant to California Government Code Section 11126(c)(3)

- Aster Kifle-Thompson

PUBLIC SESSION**Call to Order****Chair's Report****Committees and Committee Assignments'****BCE Staff Recognition****Approval of Minutes**

January 10, 2008, Open Session

Board Member training on the Bagley-Keene Open Meetings Act and other relevant laws

Executive Officer's Report

- Budget
- Licensing
- Enforcement

NBCE Delegate Selection – Information Only

Citation and Fine Language

Discussion and Possible Action

Letter of Admonishment

Discussion and Possible Action

Bureau of State Audits Report

Discussion and Possible Action

COMMITTEE REPORTS

Legislative Committee - Discussion and Possible Action:

- Assembly Bill 450
- Assembly Bill 1861
- Senate Bill 1402

Enforcement Committee - Discussion and Possible Action:

- Enforcement Committee (The Board may take action on any agenda item listed on the attached Enforcement Committee Agenda)

Manipulation Under Anesthesia (MUA) Committee - Discussion and Possible Action:

- MUA Committee (The Board may take action on any agenda item listed on the attached MUA Committee Agenda)

Administrative Committee – Discussion and Possible Action:

- Administrative Committee (The Board may take action on any agenda item listed on the attached Administrative Committee Agenda)

Announcements

Next Board meeting – May 22, 2008, Sacramento

Public Comment

New Business

- Future Agenda Items
- Other Issues

Adjournment

Meetings of the Board of Chiropractic Examiners are open to the public except when specifically noticed otherwise in accordance with the Public Meetings Act. Public comments will be taken on agenda items at the time the specific item is raised. The Board may take action on any item listed on the agenda, unless listed as informational only. All times are approximate and subject to change. Agenda items may be taken out of order to accommodate speakers and to maintain a quorum. The meeting may be cancelled without notice. For verification of the meeting, call (916) 263-5355 or access the Board's Web Site at www.chiro.ca.gov.

The meeting is accessible to the physically disabled. If a person needs disability-related accommodations or modifications in order to participate in the meeting, please make a request no later than five working days before the meeting to the Board by contacting Marlene Valencia at (916) 263-5355 ext. 5363 or sending a written request to that person at the Board of Chiropractic Examiners, 2525 Natomas Park Drive, Suite 260, Sacramento, CA 95833. Requests for further information should be directed to Ms. Valencia at the same address and telephone number.

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Committee Assignments
 Revised March 2008

Committee	Members	Responsibilities
Continuing Education	Richard Tyler, D.C. (Chair) Hugh Lubkin, D.C.	Proposes policies, standards and approves CE providers
Enforcement	Hugh Lubkin, D.C. (Chair) Judge Duvaras	Proposes regulations, policies, and standards to ensure compliance with chiropractic law and regulations
Government Relations	Jim Conran, Chair Hugh Lubkin, D.C.	Proposes policies to address audit and Sunset Review Committee deficiencies; oversees all administrative issues regarding BCE operations
Legislation / Regulation	Frederick Lerner, D.C. (Chair) Francesco Columbu, D.C.	Proposes positions on legislative bills and regulatory matters
Licensing	Judge Duvaras, Chair Richard Tyler, D.C.	Proposes policies and standards regarding chiropractic colleges doctors of chiropractic and satellite offices
Public Relations	Fred Lerner, D.C. (Chair) Jim Conran	Develops strategies to communicate with the public through various forms of media.
Scope of Practice	Hugh Lubkin, D.C., (Chair) Fred Lerner, D.C.	Reviews and proposes positions on scope of practice issues
Strategic Planning	Richard Tyler, D.C. (Chair) Francesco Columbu, D.C.	Develops draft Strategic Plans and monitors the BCE's progress in achieving goals and objectives

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**BOARD OF CHIROPRACTIC EXAMINERS
PUBLIC SESSION MINUTES**

January 10, 2008
400 R Street, Room 101
Sacramento, CA 95814

Board Members Present

Frederick Lerner, DC., Chair
Hugh Lubkin, D.C. Vice Chair
Francesco Columbu, D.C. Secretary
Jim Conran, Public Member
Judge Duvaras, Public Member
Richard Tyler, D. C.

Staff Present

Brian Stiger, Executive Officer
LaVonne Powell, Senior Staff Counsel
Thomas Rinaldi, Deputy Attorney General
Marlene Valencia, Staff Services Analyst

Call to Order

Dr. Tyler called the meeting to order at 10:47 a.m.

Roll Call

Dr. Columbu called the roll. All members were present.

Board Member Opening Remarks

Dr. Tyler commented on the events of the past year. He recognized the Board Members and Board Staff for their good work over the past year and offered advice to the Board in moving forward. Dr. Tyler commended the International Chiropractic Association of California (ICAC), the California Chiropractic Association (CCA), and the International Chiropractic Association (ICA) for their support over the past year.

Judge Duvaras recognized the CCA for its positive comments about the Board in an editorial printed on July 23, 2007.

Dr. Lubkin expressed his dedication to consumer protection and complemented Board Members and Board Staff for their outstanding efforts.

Election of Officers for 2008

Dr. Tyler asked for all nominations for Board Chair.

JUDGE DUVARAS MOVED TO NOMINATE DR. LERNER FOR BOARD CHAIR. DR. COLUMBU SECONDED THE MOTION. VOTE: 6-0. MOTION CARRIED.

Dr. Tyler asked for all nominations for Vice Chair.

DR. COLUMBU MOVED TO NOMINATE DR. LUBKIN FOR VICE CHAIR. JUDGE DUVARAS SECONDED THE MOTION. VOTE: 6-0. MOTION CARRIED.

Dr. Tyler asked for all nominations for Secretary.

DR. LUBKIN MOVED TO NOMINATE DR. COLUMBU FOR SECRETARY. DR. LERNER SECONDED THE MOTION. VOTE: 6-0. MOTION CARRIED.

New Chair's Opening Remarks

Dr. Lerner recognized Dr. Tyler for his leadership over the past year and presented him with a plaque.

Judge Duvaras complemented Dr. Tyler for his dedication and leadership during his tenure as Board Chair.

Dr. Lerner, as the newly elected chair, reiterated the board's mission is to protect the public. He made restoration of the budget and improving enforcement as the board's top priorities.

Dr. Lerner expressed interest in revamping continuing education, establishing a public relations committee, and adopting a number of regulations.

Approval of Minutes

November 27, 2007, Open Session

MR. CONRAN MOVED TO ADOPT THE MINUTES AS AMENDED. DR. LUBKIN SECONDED THE MOTION. VOTE: 6-0. MOTION CARRIED.

Board Member Training on the Bagley-Keene Open Meetings Act and other relevant laws

Ms. Powell advised the Board to always allow members of the public the opportunity to express themselves freely and openly. Ms. Powell complemented the Board for showing respect to the public during past meetings.

Ms. Powell informed the Board that mail votes can be made through e-mail. Dr. Lerner is interested in this concept and volunteered to develop an electronic document that can be used by Board Members.

Mr. Conran suggested that public comments be placed at the beginning of the agenda rather than at the end out of respect for the public.

Ms. Powell reminded the Board Members not to make decisions on items not on an agenda or outside of Board meetings.

Executive Officer's Report

Mr. Stiger provided a status of the budget. He projected a \$170,000 deficit at the end of the fiscal year. Mr. Stiger is confident he will be able to find additional savings to address the projected deficit.

Mr. Stiger informed the Board that the lay-off was effective on January 7, 2008. Staff members are wearing multiple hats. Mr. Stiger expressed concern that if savings are not achieved, further cuts may be necessary. Mr. Stiger reiterated that the budget is a major concern.

Mr. Stiger informed the board that the Legislature approved a deficiency request for \$383,000 which is earmarked for legal costs to cover recent law suits.

Judge Duvaras expressed concern about having two attorneys at board meetings given the board's budget. Mr. Stiger stated that having the Deputy Attorney Liaison at board meetings was essential to the board's success.

Mr. Stiger provided an update on licensing and enforcement statistics. Mr. Conran stated that licensees that don't pay renewal fees on time should be held accountable.

Committee Reports

Manipulation Under Anesthesia (MUA)

Dr. Lerner informed the board that the MUA committee voted to recommend to the full Board to make the legal opinion on MUA a public document.

Ms. Powell reiterated that the Board requested Ms. Powell to write the legal opinion after meeting with the OAL (Office of Administrative Law).

During the meeting, OAL indicated that a legal opinion from DCA would be sufficient to overcome the absence of a legal opinion in the previous MUA proposed regulation package that was previously disapproved by OAL.

DR. LUBKIN MOVED TO MAKE THE LEGAL OPINION PUBLIC. MR. CONRAN SECONDED THE MOTION. VOTE: 6-0. MOTION CARRIED.

Enforcement Committee

Dr. Lubkin informed the Board that the committee adopted proposed regulation language for citation and fine authority and a letter of admonishment.

Mr. Conran expressed concern that Board Members have not had the opportunity to review the language and the public has not the opportunity to express comments.

MR. CONRAN MOVED TO PLACE THE CITE AND FINE AUTHORITY AND LETTER OF ADMONISHMENT ON THE MARCH 27, 2008 MEETING. DR. LUBKIN SECONDED THE MOTION. VOTE 6-0. MOTION CARRIED.

Legislative Committee

Dr. Lerner discussed Assembly Bill 163 and asked if Board Members wanted to take a position on this bill. Mr. Conran stated it is inadvisable to take a position on Assembly Bill 163 at this time given our current budget situation.

Mr. Stiger indicated that this bill may not be taken up in the Legislature until next summer.

MR. CONRAN MOVED TO TAKE A WATCH POSITION ON ASSEMBLY BILL 163. DR. LUBKIN SECONDED THE MOTION. VOTE 6-0. MOTION CARRIED.

Mr. Conran recommended that the board adopt a stronger vetting process when corresponding with the capitol and that all correspondence be reviewed by the Executive Officer and Staff Counsel.

Announcements

The next Board meeting will be conducted on March 27, 2008 in Sacramento.

Public Comment

David Prescott asked when the next meeting would be held to address his petition to change the regulations. Mr. Stiger stated that the meeting may not take place until early March 2008.

Dr. Lerner assured Mr. Prescott that this would be placed in a committee at the earliest possible date.

Bill Howe, CCA, offered assistance to the Board to resolve the budget issue. Mr. Howe thanked Mr. Stiger for his interview with CCA and the information that he provided.

New Business

Mr. Stiger suggested that Strategic Planning be placed on a future agenda.

Dr. Charles Davis, D.C., ICAC requested that the expert witness guideline be placed on the next agenda.

Dr. Lerner adjourned the meeting at approximately 1:15 p.m.

BOARD OF CHIROPRACTIC EXAMINERS
PROJECTED EXPENDITURES FOR FY 2007/08
AS OF FEBRUARY 29, 2008

OBJECT	DESCRIPTION	BUDGET	A YEAR-TO-DATE EXPENDITURES @ 02/29/08
PERSONAL SERVICES (February)			
003	SALARY & WAGES	320,621.00	332,759.15
033	TEMPORARY HELP	-	4,860.82
063	STATUTORY-EXEMPT	40,164.00	57,102.50
063-01	BOARD MEMBERS	8,000.00	-
083	OVERTIME	2,308.00	3,226.74
101	STAFF BENEFITS	148,907.00	153,485.60
	Total Personal Services	520,000.00	551,434.81
OPERATING EXPENSES & EQUIPMENT (Jan)			
201	GENERAL EXPENSE	31,000.00	6,408.10
241	PRINTING	3,000.00	1,711.55
251	COMMUNICATIONS	27,000.00	9,542.94
261	POSTAGE	3,000.00	2,360.93
291	TRAVEL: IN-STATE	9,000.00	5,779.72
311	TRAVEL: OUT-OF-STATE	12,000.00	2,162.68
331	TRAINING	1,000.00	300.00
341	FACILITIES OPERATION	110,000.00	72,183.95
382	CONS/PROF SERV-INTERDEPT.	26,000.00	24,786.10
396.01	AG INVEST. JUS	400,000.00	247,218.93
396.02	AG FINGERPRINTS	6,000.00	2,450.00
397	OFC ADMIN HEARING	100,000.00	38,258.00
402	CONS/PROF SERV-EXTERNAL	441,000.00	54,950.71
418.05	CONS INVESTIGATION CONTRACTS	65,000.00	54,433.41
428	CONSOLIDATED DATA CENTER	18,000.00	9,175.29
434	INTERAGENCY AGREEMENT-DP	-	-
435	D P-NOT OTHERWISE CLASS.	-	242.39
435.01	IT CONSULTANT	60,000.00	14,640.00
438	PRO-RATA	127,000.00	-
451	EQUIPMENT	-	-
	Total Operating Exp & Equip	1,439,000.00	546,604.70
	TOTAL AUTHORIZED EXPENDITURES	1,959,000.00	1,098,039.51
	SCHEDULE OF REIMBURSEMENTS	-22,000.00	-2,856.00
	NET EXPENDITURES	1,937,000.00	1,095,183.51

BOARD OF CHIROPRACTIC EXAMINERS
LICENSE STATISTICAL DATA
As of MARCH 1, 2008

LICENSE TYPE	VALID/ACTIVE	FORFEITED	CANCELLED
CHIROPRACTORS	13833	1056	7827
SATELLITES	2237	852	4814
CORPORATIONS	1296	366	980
REFERRALS	17	15	4
TOTALS	17383	2289	13625

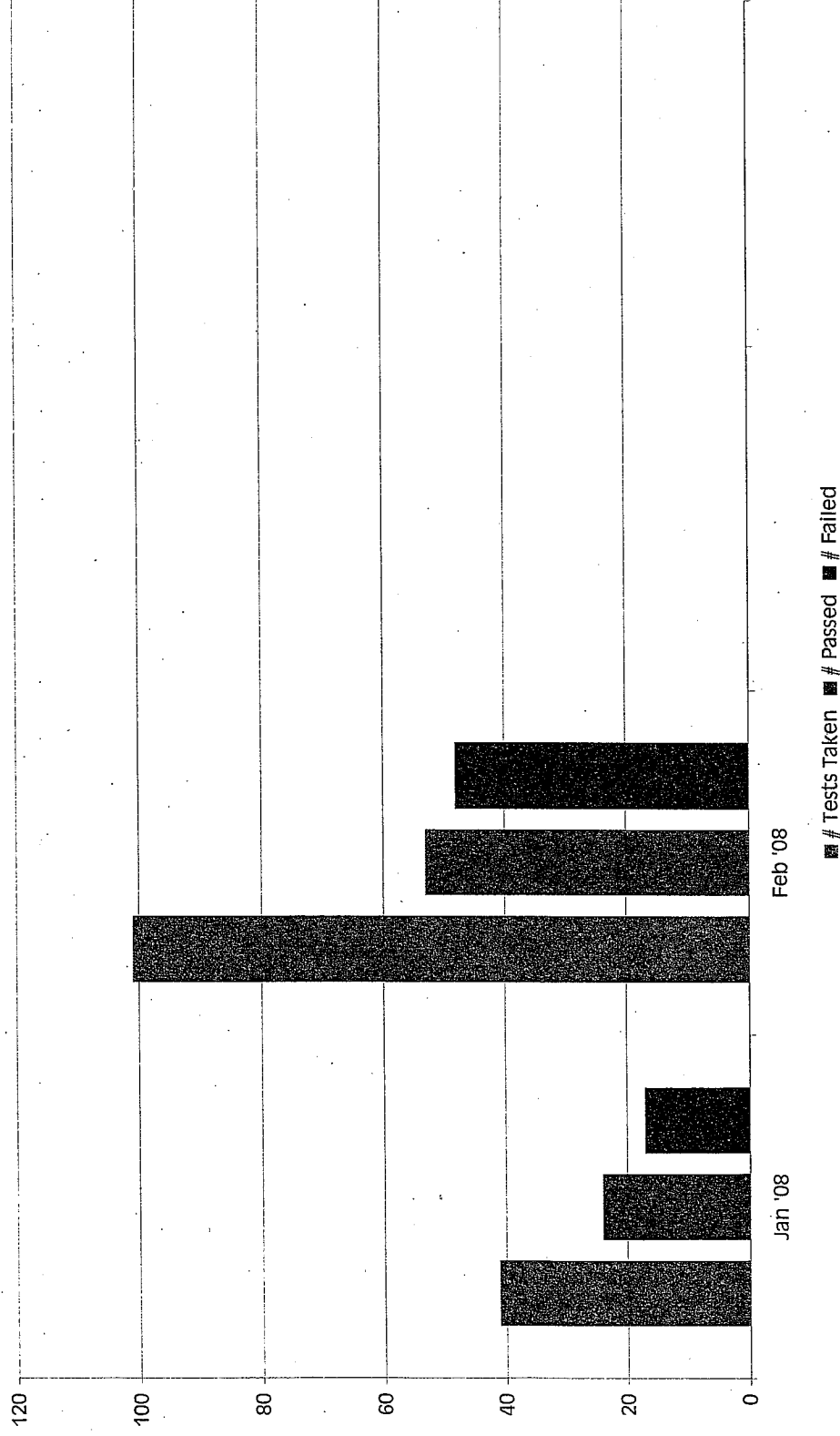
As of MARCH 1, 2007

LICENSE TYPE	VALID/ACTIVE	FORFEITED	CANCELLED
CHIROPRACTORS	13783	1075	7553
SATELLITES	2027	1365	3565
CORPORATIONS	1221	294	967
REFERRALS	17	15	4
TOTALS	17048	2749	12089

2008 Chiropractic Law & Professional Practice Exam (CLPPE)

	# Tests Taken	# Passed	# Failed
Jan '08	41	24	17
Feb '08	101	53	48

*78% Needed to Pass the CLPPE



Violation Codes/Descriptions

The Chiropractic Initiative Act of California (ACT):

- 10 – Rules of Professional Conduct
- 15 – Noncompliance With and Violations of Act

California Code of Regulations (CCR):

- 302(a) – Scope of Practice
- 303 – Filing of Addresses
- 308 – Display of License
- 311 – Advertisements
- 312 – Illegal Practice
- 316 – Responsibility for Conduct on Premises
- 317 – Unprofessional Conduct
- 318 – Chiropractic Patient Records/Accountable Billing
- 319 – Free or Discount Services
- 355 – Renewal and Restoration
- 360 – Continuing Education Audits
- 367.5 – Application, Review of Refusal to Approve (corporations)
- 367.7 – Name of Corporation

Business and Professions Code (BP):

- 801 – Professional Reporting (malpractice settlements)
- 810 – Insurance Fraud
- 2430 – Default on Health Education Assistance Loan

Health and Safety Code (HS):

- 123110 – Patient Access to Health Records

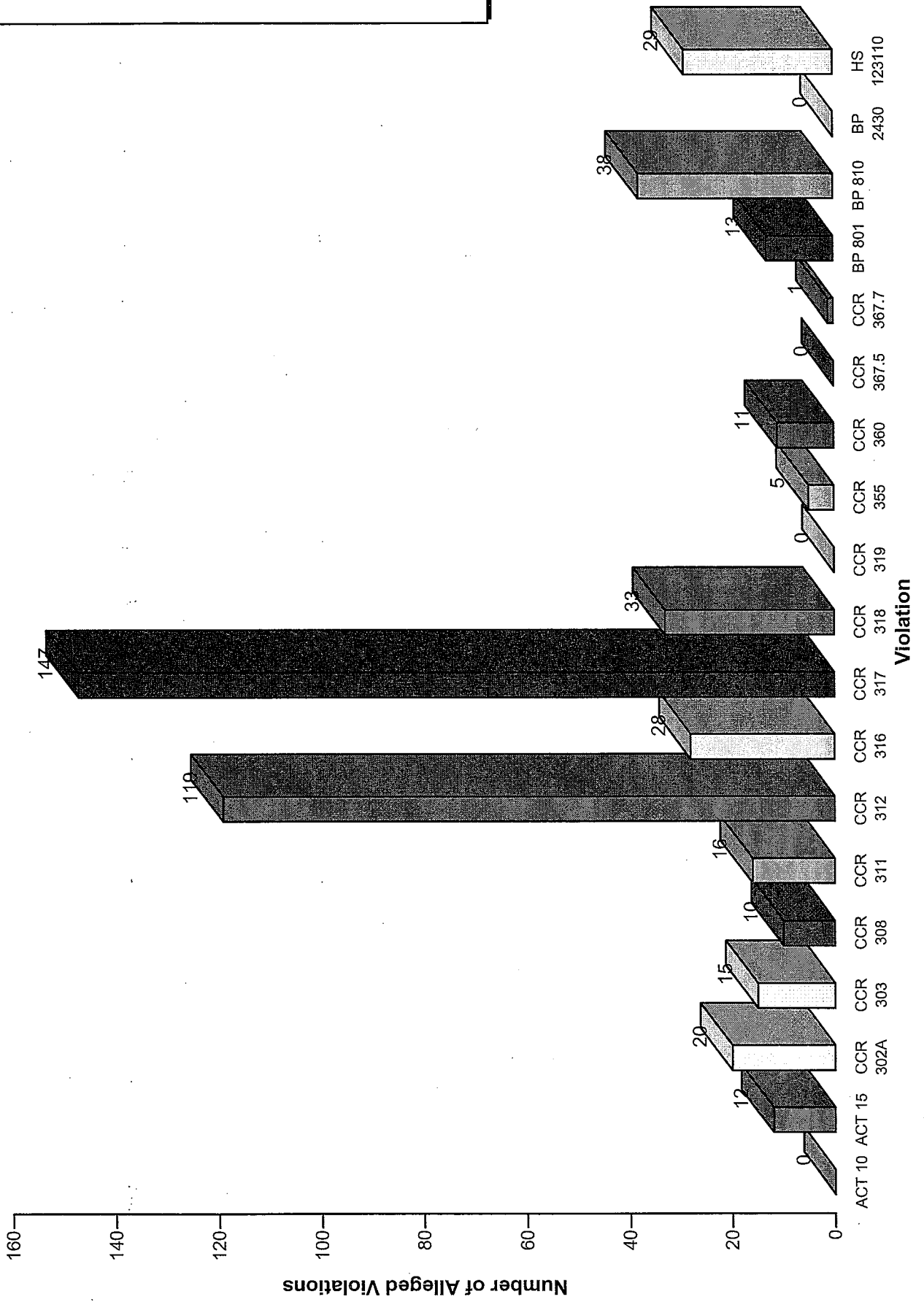
FISCAL YEAR 2008

July 1, 2007 - February 29, 2008

Total Number of Complaints Opened - 401

Total Number of Violations - 497

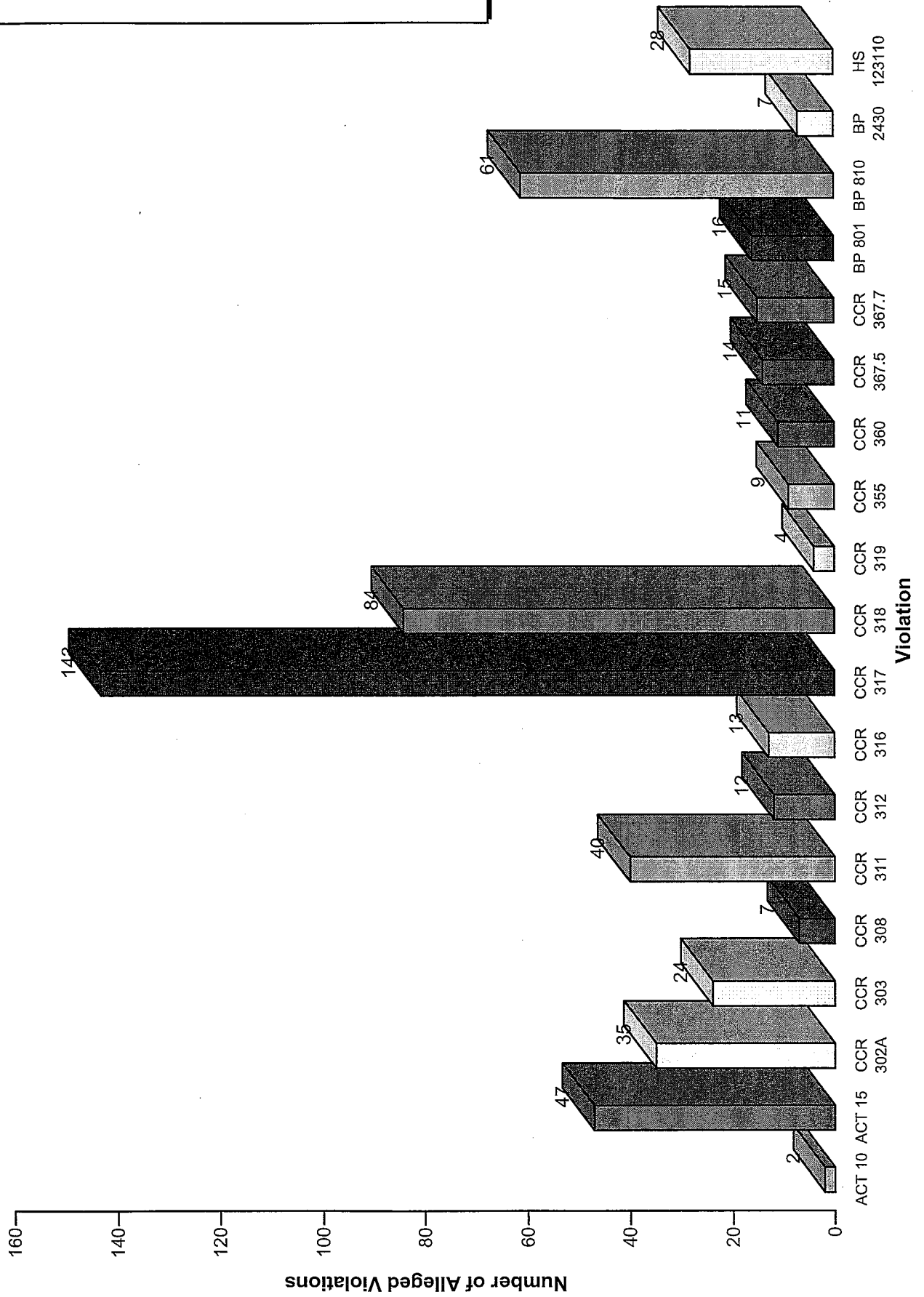
(A complaint may contain multiple violations)



- ACT 10
- ACT 15
- CCR 302A
- CCR 303
- CCR 308
- CCR 311
- CCR 312
- CCR 316
- CCR 317
- CCR 318
- CCR 319
- CCR 355
- CCR 360
- CCR 367.5
- CCR 367.7
- BP 801
- BP 810
- BP 2430
- HS 123110

FISCAL YEAR 2007

July 1, 2006 - December 31, 2006
 Total Number of Complaints Opened - 383
 Total Number of Violations - 572
 (A complaint may contain multiple violations)



- ACT 10
- ACT 15
- CCR 302A
- CCR 303
- CCR 308
- CCR 311
- CCR 312
- CCR 316
- CCR 317
- CCR 318
- CCR 319
- CCR 355
- CCR 360
- CCR 367.5
- CCR 367.7
- BP 801
- BP 810
- BP 2430
- HS 123110

THE FOLLOWING PROPOSED LANGUAGE WAS APPROVED BY THE
ENFORCEMENT COMMITTEE ON JANUARY 10, 2008.

PROPOSED REGULATIONS RE CITE AND FINE

§390. Issuance of Citations and Fines.

(a) The Executive Officer of the board or his/ or her designee may issue a citation containing an order to pay a fine between \$100 and \$5,000 and with an order of abatement against a licensee for any violation of the Act or the California Code of Regulations or any laws governing the practice of chiropractors which would be grounds for discipline. A citation may be issued without the assessment of a fine, when determined by the Executive Officer or his or her designee.

(b) Each citation shall be in writing and shall describe with particularity the nature and facts of each violation specified in the citation, including a reference to the law and/or regulation alleged to have been violated.

(c) The citation shall be served upon the cited person either individual personally or by certified United States mail.

NOTE: Authority cited: Sections 125.9, 1000-4(b) and 1000-10, Business and Professions Code; and Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii. Reference: Sections 1000-4(b) and 1000-10, Business and Professions Code; and Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii.

HISTORY: 1. New section filed 9-25-2000; operative 10-25-2000 (Register 2000, No. 39).

§390.1. Criteria to Be Considered.

In the issuance of any citation, the following factors shall be considered:

- (a) Nature and severity of the violation.
- (b) Length of time that has passed since the date of the violation.
- (c) Consequences of the violation, including potential or actual patient harm.
- (d) History of previous violations of the same or similar nature.
- (e) Evidence that the violation was willful.
- (f) Gravity of the violation.

(g) The extent to which the cited person has remediated any knowledge and/or skill deficiencies which could have injured a patient.

NOTE: Authority cited: Sections 125.9, 1000-4(b), and 1000-10, Business and Professions Code; and Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii. Reference: Sections 1000-4(b) and 1000-10, Business and Professions Code; and Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii.

HISTORY: 1. New section filed 9-25-2000; operative 10-25-2000 (Register 2000, No. 39).

~~§390.2. Violation Codes and Penalty.~~

~~— (a) The issuance of a citation can be for any of the following violations:~~

- ~~— Title 16 California Code of Regulations Section 302(a)(7)~~
- ~~— Title 16 California Code of Regulations Section 303~~
- ~~— Title 16 California Code of Regulations Section 308~~
- ~~— Title 16 California Code of Regulations Section 310~~
- ~~— Title 16 California Code of Regulations Section 310.2~~
- ~~— Title 16 California Code of Regulations Section 311~~
- ~~— Title 16 California Code of Regulations Section 312~~
- ~~— Title 16 California Code of Regulations Section 312.1~~
- ~~— Title 16 California Code of Regulations Section 313~~
- ~~— Title 16 California Code of Regulations Section 317(d)~~
- ~~— Title 16 California Code of Regulations Section 317(f)~~
- ~~— Title 16 California Code of Regulations Section 317(p)~~
- ~~— Title 16 California Code of Regulations Section 317(r)~~
- ~~— Title 16 California Code of Regulations Section 317(u)~~
- ~~— Title 16 California Code of Regulations Section 317.1~~
- ~~— Title 16 California Code of Regulations Section 318~~
- ~~— Title 16 California Code of Regulations Section 319~~
- ~~— Title 16 California Code of Regulations Section 355(b)~~
- ~~— Title 16 California Code of Regulations Section 367.5(e)~~
- ~~— Title 16 California Code of Regulations Section 367.7~~
- ~~— Chiropractic Initiative Act Section 15~~
- ~~— Business and Professions Code Section 725~~
- ~~— Business and Professions Code Section 1054~~
- ~~— Business and Professions Code Section 1055~~
- ~~— Business and Professions Code Section 17500~~
- ~~— Health and Safety Code Section 123110~~

~~— (b) In his/her discretion, the executive director or designee may issue an order of abatement for the first violation of any provision set forth in subsection (a).~~

~~— (c) If a licensee has previously been issued two citations for violation of any of the code sections in subsection (a), the third violation will result in filing an accusation.~~

~~NOTE: Authority cited: Sections 1000.4(b) and 1000.10, Business and Professions Code; and Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii. Reference: Sections 1000.4(b) and 1000.10, Business and Professions Code; and Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii.~~

~~HISTORY: 1. New section filed 9-25-2000; operative 10-25-2000 (Register 2000, No. 39). 2. Amendment of subsection (a) filed 10-16-2003; operative 11-15-2003 (Register 2003, No. 42).~~

§390.3. Citations for Unlicensed Practice.

The Executive Officer or his/her designee may issue a citation against any unlicensed person who is acting in the capacity of a licensee under the jurisdiction of the board and who is not otherwise exempt from licensure. Each citation may contain an order of abatement fixing a reasonable period of time for an abatement and an order to pay a fine not to exceed \$5,000 for each violation. Any sanction authorized for activity under this section shall be separate from and in addition to any other civil or criminal remedies.

NOTE: Authority cited: Sections 125.9, 1000-4(b), and 1000-10, Business and Professions Code; and Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii. Reference: Sections 1000-4(b) and 1000-10, Business and Professions Code; and Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii.

HISTORY: 1. New section filed 9-25-2000; operative 10-25-2000 (Register 2000, No. 39).

§390.4. Contested Citations.

(a) The citation shall inform the licensee that if he/she desires a hearing to contest the finding of a violation, that hearing shall be requested by written notice to the board within 30 calendar days of the date of issuance of the citation. Hearings shall be held pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) In addition to requesting a hearing provided for in subdivision (a) of this section, the cited person may, within 14 calendar days after service of the citation, submit a written request for an informal conference with the Executive Officer.

(c) The Executive Officer or his/her designee shall, within 30 calendar days from receipt of the written request, hold an informal conference with the person cited and/or his/her legal counsel or authorized representative.

(d) The Executive Officer or his/her designee may affirm, modify or dismiss the citation, at the conclusion of the informal conference. A written decision stating the reasons for the decision shall be mailed to the cited person and his/her legal counsel, if any, within 14 calendar days from the date of the informal conference. This decision shall be deemed to be a final order with regard to the citation issued.

(e) If the citation is dismissed, the request for a hearing shall be deemed withdrawn. If the citation is affirmed or modified, the cited person may, in his/her discretion, withdraw the request for a hearing or proceed with the administrative hearing process.

NOTE: Authority cited: Sections 125.9, 1000-4(b), and 1000-10, Business and Professions Code; and Chiropractic Initiative Act of California, Stats. 1923, p.

1xxxviii. Reference: Sections 1000-4(b) and 1000-10, Business and Professions Code; and Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii.
HISTORY: 1. New section filed 9-25-2000; operative 10-25-2000 (Register 2000, No. 39).

§390.5. Compliance with Citation/Order of Abatement.

(a) Orders of abatement may be extended for good cause. If a cited person who has been issued an order of abatement is unable to complete the correction within the time set forth in the citation because of conditions beyond his/her control after the exercise of reasonable diligence, the person cited may request an extension of time from the executive officer or his/her designee in which to complete the correction. Such a request shall be in writing and shall be made within the time set forth for abatement.

(b) When a citation or order of abatement is not contested or if the order is appealed and the person cited does not prevail, failure to abate the violation within the time allowed or pay the fine that is imposed, if one was, shall constitute a violation and a failure to comply with the citation or order of abatement.

(c) Failure to timely comply with an order of abatement or pay a fine that is imposed is unprofessional conduct and may result in disciplinary action being taken by the board.

NOTE: Authority cited: Sections 125.9, 1000-4(b), and 1000-10, Business and Professions Code; and Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii. Reference: Sections 1000-4(b) and 1000-10, Business and Professions Code; and Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii.
HISTORY: 1. New section filed 9-25-2000; operative 10-25-2000 (Register 2000, No. 39).

§390.6. Notification to Other Boards and Agencies.

The issuance and disposition of a citation shall be reported to other chiropractic boards and other regulatory agencies. A licensee's compliance with an order of abatement or payment of a fine based on the finding of a violation may only be disclosed to the public as satisfactory resolution of the matter.

NOTE: Authority cited: Sections 125.9, 1000-4(b), and 1000-10, Business and Professions Code; and Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii. Reference: Sections 1000-4(b) and 1000-10, Business and Professions Code; and Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii.
HISTORY: New section filed 9-25-2000; operative 10-25-2000 (Register 2000, No. 39).

THE FOLLOWING PROPOSED LANGUAGE WAS APPROVED BY THE
ENFORCEMENT COMMITTEE ON JANUARY 10, 2008

PROPOSED REGULATION RE LETTER OF ADMONISHMENT

§ 389. Letter of Admonishment.

- (a) The Executive Officer, or his or her designee, may issue a letter of admonishment to a licensee for failure to comply with any provision of the Act, statute or regulations governing the practice of chiropractic.
- (b) The letter of admonishment shall be in writing and shall describe in detail the nature and facts of the violation, including a reference to the Act, statute or regulation violated.
- (c) The letter of admonishment shall inform the licensee that within 30 days of the date of the letter the licensee may do either of the following:
 - (1) Submit a written request for an office conference to the Executive Officer of the board to contest the letter of admonishment.
 - (A) Upon a timely request, the Executive Officer, or his or her designee, shall hold an office conference with the licensee or the licensee's legal counsel or authorized representative. Unless so authorized by the Executive Officer, or his or her designee, no individual other than the legal counsel or authorized representative of the licensee may accompany the licensee to the office conference.
 - (B) Prior to or at the office conference, the licensee may submit to the Executive Officer declarations and documents pertinent to the subject matter of the letter of admonishment.
 - (C) The office conference is intended to be an informal proceeding and shall not be subject to the provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), Chapter 4.5 (commencing with Section 11400), and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).
 - (D) The Executive Officer, or his or her designee, may affirm, modify, or withdraw the letter of admonishment. Within 14 calendar days from the date of the office conference, the Executive Officer, or his or her designee, shall personally serve or send by certified United States mail to the licensee's address of record with the board a written decision. This decision shall be deemed the final administrative decision concerning the letter of admonishment.
 - (E) Judicial review of the decision may be obtained by filing a petition for a writ of mandate in accordance with the provisions of Section 1094.5 of the Code of Civil Procedure within 30 days of the date the decision was personally served or sent by certified United States mail. The judicial review shall extend to the question of whether or not there was a prejudicial abuse of discretion in the issuance of the letter of admonishment.

- (2) Comply with the letter of admonishment and submit a written corrective action plan to the Executive Officer documenting compliance.
- (3) The letter of admonishment shall be served upon the licensee personally or by certified United States mail at the licensee's address of record with the board. If the licensee is served by certified United States mail, service shall be effective upon deposit in the United States mail.
- (d) The licensee shall maintain and have readily available a copy of the letter of admonishment and corrective action plan, if any, for at least three years from the date of issuance of the letter of admonishment.
- (e) Nothing in this section shall in any way limit the board's authority or ability to do either of the following:
 - (1) Issue a citation pursuant to Section 390 California Code of Regulations.
 - (2) Institute disciplinary proceedings pursuant to Section 10 of the Act.

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